

In The Matter Of:

***REFCO INC. SECURITIES LITIGATION/MARC S.
KIRSCHNER, etc.***

v.

PHILLIP R. BENNETT, et al.

***MAWDSLEY, CRAIG - Vol. 1
July 26, 2011***

MERRILL CORPORATION

Legalink, Inc.

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10th Floor
New York, NY 10014
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STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re REFCO, INC. SECURITIES
LITIGATION

07-MDL-1902
-----x

This Document Relates To:

MARC S. KIRSCHNER, as Trustee of
the Refco Private Actions Trust,

Plaintiff,

-vs-

07 CIV 8165 (JSR)

PHILLIP R. BENNETT, SANTO C. MAGGIO,
ROBERT C. TROSTEN, MAYER BROWN LLP,
MAYER BROWN INTERNATIONAL LLP, and
GRANT THORNTON LLP,
Defendants.

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GRANT THORNTON LLP,
Defendant/Third Plaintiff,

-vs-

THOMAS H. LEE PARTNERS, L.P.;
THL EQUITY ADVISORS V, LLC;
THL MANAGERS V, LLC;
THOMAS H. LEE EQUITY FUND V, L.P.
THOMAS H. LEE PARALLEL FUND V, L.P.,
THOMAS H. LEE EQUITY (CAYMAN) FUND V,
L.P., THOMAS H. LEE; DAVID V. HARKINS;
SCOTT L. JAECKEL; and SCOTT A SCHOEN,

Third-party Defendants.

-----x
July 26, 2011
10:30 a.m.

WITNESS: CRAIG MAWDSLEY

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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:07:20 2	Q. Can you elaborate what do you	11:09:37 2	Q. How did you learn about the
11:07:21 3	mean by structuring advice?	11:09:39 3	availability of a position with Mr. McPike?
11:07:23 4	A. Maple Securities had, from memory	11:09:41 4	A. Marcus Traill informed me that
11:07:26 5	four different trading desks. They had a	11:09:49 5	there was a vacant position.
11:07:28 6	credit derivatives trading desk. They had an	11:09:53 6	Q. How did you know Mr. Traill at
11:07:33 7	equity arbitrage trading desk. They had what	11:09:55 7	the time?
11:07:36 8	they called a special situations trading desk	11:09:55 8	A. We attended University together.
11:07:38 9	and they had a commercial finance trading desk.	11:09:59 9	Q. In New Zealand?
11:07:40 10	So the structuring advice, for	11:10:00 10	A. Yes.
11:07:42 11	example, for the derivatives desk would be	11:10:05 11	Q. What was his position at the
11:07:45 12	structuring CDOs, for example, providing advice	11:10:07 12	time?
11:07:49 13	on ISDA documentation. And how to form a CDO,	11:10:07 13	A. Who is "his" in your question?
11:07:55 14	I guess.	11:10:11 14	Q. I'm sorry?
11:08:01 15	Q. Who did you report to when you	11:10:12 15	A. Who is the "his" in your
11:08:02 16	worked at Maple Securities UK Limited?	11:10:14 16	question?
11:08:05 17	A. Hugo Watson Brown.	11:10:14 17	Q. Marcus Traill.
11:08:07 18	Q. What was his position?	11:10:15 18	A. He was the day trader. He may
11:08:08 19	A. I believe he was the Managing	11:10:23 19	have actually been head of trading at that
11:08:12 20	Director.	11:10:28 20	point.
11:08:13 21	Q. Did you directly report to him	11:10:38 21	Q. Did you interview with anyone
11:08:15 22	during the entire time you were there?	11:10:39 22	else besides Mr. McPike for the job?
11:08:16 23	A. Yes.	11:10:42 23	A. Jim Cone.
11:08:22 24	Q. Did you have any direct reports?	11:10:45 24	Q. Do you remember what his position
11:08:24 25	A. No.	11:10:54 25	was at the time?
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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:08:29 2	Q. What caused you to leave Maple	11:10:54 2	A. No.
11:08:32 3	Securities UK Limited and begin working for Mr.	11:10:56 3	Q. When did you officially begin
11:08:33 4	McPike?	11:10:59 4	working for Mr. McPike? Do you know the start
11:08:34 5	MR. PAULSEN: Objection to form.	11:11:02 5	date?
11:08:35 6	A. An unsuccessful management	11:11:03 6	A. I don't know the date. It was in
11:08:37 7	buy-out.	11:11:05 7	the month of May 2005.
11:08:41 8	Q. Can you elaborate a little bit on	11:11:12 8	Q. What was your position or title
11:08:43 9	that what you mean by that?	11:11:13 9	when you started working for Mr. McPike in May
11:08:44 10	A. The management team at Maple	11:11:16 10	2005?
11:08:46 11	Securities looked to purchase the corporate	11:11:25 11	A. We don't have job titles per se.
11:08:48 12	finance business, commercial finance business	11:11:30 12	If I did I would have been the night trader.
11:08:51 13	from the bank. And they were unsuccessful.	11:11:37 13	Q. Did you have business cards?
11:08:55 14	And I was on the management side of the	11:11:38 14	A. No.
11:08:58 15	management buy-out, and as is often customary	11:11:38 15	Q. No business card at all?
11:09:01 16	when those deals don't proceed, you seek	11:11:40 16	A. No.
11:09:04 17	alternative employment.	11:11:40 17	Q. Or stationery or letterhead that
11:09:09 18	Q. When did you first meet Mr.	11:11:41 18	will identify any kind of position or title you
11:09:15 19	McPike?	11:11:44 19	may have held?
11:09:16 20	A. April 2005.	11:11:45 20	A. No.
11:09:21 21	Q. How did you meet him?	11:11:45 21	Q. What were your duties and
11:09:23 22	A. In a job interview.	11:12:02 22	responsibilities when you first joined the
11:09:34 23	Q. Where did that interview take	11:12:03 23	company as a night trader?
11:09:36 24	place?	11:12:04 24	A. Execution of trading signals.
11:09:37 25	A. In the Bahamas.	11:12:15 25	Q. When you say trading signals, I'm

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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:12:18 2	not familiar with that term, what does that	11:14:15 2	experienced any formal title changes, but if
11:12:20 3	mean?	11:14:18 3	you can kind of walk me through how your duties
11:12:20 4	A. It's a decision to buy or sell a	11:14:21 4	and responsibilities shifted and how you got to
11:12:27 5	security.	11:14:23 5	the point today when I asked you what your
11:12:29 6	Q. What types of trading did you do,	11:14:25 6	position was, you said you were the General
11:12:31 7	sir, back in May of 2005?	11:14:27 7	Counsel.
11:12:32 8	A. What do you mean?	11:14:28 8	MR. PAULSEN: Objection to form.
11:12:36 9	Q. Well, securities, did you do	11:14:29 9	A. Okay. So we had a small office.
11:12:39 10	foreign exchange trading? I am trying to get a	11:14:32 10	And it is an informal office, hence, no titles.
11:12:41 11	sense of the various types of trading that you	11:14:35 11	We as an employee you tend to do whatever is
11:12:43 12	did as a night trader.	11:14:40 12	required of you, whatever you are best suited
11:12:45 13	A. Do you wish to know the asset	11:14:43 13	for.
11:12:47 14	classes we traded in?	11:14:43 14	I was employed by Mr. McPike as a
11:12:48 15	Q. Yes, please.	11:14:46 15	night trader. After a period of working nights
11:12:48 16	A. We traded futures and foreign	11:14:48 16	I moved on to days, became the day trader.
11:12:50 17	exchange.	11:14:52 17	And after a period of trading
11:12:57 18	Q. Any other asset classes?	11:14:55 18	days I moved off the desk all together. And
11:12:58 19	A. Yes, metals.	11:14:58 19	started to provide just general advisory work
11:13:14 20	Q. Did you trade all three of these	11:15:02 20	for Mr. McPike. Usually I would deal with any
11:13:15 21	types of asset classes, futures, foreign	11:15:05 21	legal issues that affected our business because
11:13:18 22	exchange and metals back in May of 2005?	11:15:08 22	I have a legal background. But it could be
11:13:20 23	A. No.	11:15:11 23	anything and everything.
11:13:21 24	Q. Can you tell me during what time	11:15:12 24	Q. Are you involved in negotiating
11:13:24 25	frame you did each? In other words, break it up	11:15:14 25	contracts?
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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:13:30 2	for me. Were you doing futures trading back in	11:15:15 2	A. Yes.
11:13:32 3	May of 2005?	11:15:15 3	Q. Including contracts relating to
11:13:33 4	A. Yes.	11:15:21 4	foreign exchange trading?
11:13:33 5	Q. Were you doing foreign exchange	11:15:23 5	A. Yes.
11:13:35 6	trading back in 2005?	11:15:25 6	Q. Let's back up to May of 2005.
11:13:36 7	A. It depends what you mean by	11:15:27 7	Did you physically move from London to the
11:13:41 8	foreign exchange trading. If you mean cash	11:15:29 8	Bahamas when you started working for Mr.
11:13:43 9	foreign exchange, no. If you mean exchange	11:15:31 9	McPike?
11:13:45 10	traded foreign exchange, yes.	11:15:31 10	A. Yes.
11:13:48 11	Q. What about metals?	11:15:32 11	Q. And you've remained there since?
11:13:49 12	A. No.	11:15:33 12	A. Yes.
11:13:50 13	Q. When did you begin doing that?	11:15:34 13	Q. How many employees did Mr. McPike
11:13:51 14	A. When I moved to the day desk, day	11:15:38 14	have back in May of 2005?
11:13:57 15	trading.	11:15:40 15	A. I don't know with certainty. I
11:13:57 16	Q. When was that?	11:15:44 16	would guess 15.
11:13:58 17	A. Approximately a year after I	11:15:46 17	Q. How many does he have today?
11:14:00 18	started.	11:15:47 18	A. 15 or 20.
11:14:02 19	Q. I want to have you take me	11:15:50 19	Q. Sticking with the 2005 time
11:14:05 20	through the evolution of your work for Mr.	11:16:03 20	period, just as a point of reference, can you
11:14:07 21	McPike if you could. You started as a night	11:16:06 21	explain to me what those roughly 15 different
11:14:09 22	trader in 2005.	11:16:09 22	employees did, what type of different hats did
11:14:10 23	A. Uh-huh.	11:16:11 23	they wear?
11:14:11 24	Q. It sounds like he wasn't big on	11:16:11 24	A. So broadly speaking we had in May
11:14:14 25	titles or positions. So I don't know if you	11:16:16 25	2005, two traders. One, I guess office

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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:55:52 2	A. Price data.	11:58:19 2	day in the life. In other words, when did you
11:55:55 3	Q. How do you as a trader ensure the	11:58:21 3	show up at work, how many trades did you place
11:55:58 4	integrity of that data?	11:58:25 4	in a typical day? Things of that nature.
11:56:02 5	MR. PAULSEN: Objection to form.	11:58:28 5	If you can just give me a little
11:56:05 6	A. It's based on, we have a computer	11:58:29 6	bit more background as to how you did your job?
11:56:08 7	program, so when we make a decision we take	11:58:31 7	A. In 2005 I would come into work at
11:56:13 8	input data, like price data. And based on that	11:58:34 8	one o'clock in the afternoon and I would
11:56:19 9	price data we make a decision as to what to buy	11:58:38 9	download the most recent day's historical data,
11:56:21 10	or sell in the market.	11:58:44 10	open, high, low, close data for all the markets
11:56:22 11	So if we put bad price data into	11:58:47 11	we trade. And clean the data to make sure a
11:56:24 12	the model, we'll get an inaccurate signal. So	11:58:52 12	data provider is not reporting a bad price.
11:56:29 13	the check, that particular verification	11:58:54 13	I would then, you know, interact
11:56:32 14	exercise is to make sure that the latest price	11:58:55 14	with the other members of the trading team as
11:56:37 15	that we are sending to the decision-making	11:58:58 15	to any new issue that might be relevant to the
11:56:40 16	model is reasonable.	11:59:01 16	desk, such as a new market we might be trading,
11:56:41 17	And so, here, for example, a data	11:59:05 17	a new transaction cost model we might have, a
11:56:45 18	provider may be reporting a bad price for an	11:59:07 18	new system we might be trading.
11:56:48 19	instrument. It is nothing more than that.	11:59:08 19	I would typically leave the
11:56:53 20	Q. Then you indicated you need to	11:59:10 20	office again around two o'clock or three
11:56:55 21	work the order on the market and attempt to do	11:59:12 21	o'clock in the afternoon. Come back to the
11:57:00 22	so with minimal slippage, is that what you	11:59:14 22	office around seven o'clock or eight o'clock at
11:57:02 23	said?	11:59:19 23	night, again, collect more data, clean the
11:57:02 24	A. Yes.	11:59:24 24	data. Then at our first decision time for the
11:57:03 25	Q. What do you mean by minimal	11:59:26 25	first market we trade I would trade in the
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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
11:57:05 2	slippage?	11:59:30 2	manner we just described.
11:57:05 3	A. Slippage is a term that refers to	11:59:31 3	That would continue until about
11:57:08 4	market impact. So when we make a decision to	11:59:36 4	three or four o'clock the following morning, at
11:57:16 5	buy or sell an instrument it is based on a	11:59:39 5	which point I would go home.
11:57:18 6	price assumption. It's not a theoretical	11:59:41 6	Q. When would the first relevant
11:57:21 7	price, it is the price the market is trading at	11:59:42 7	market open for your purposes?
11:57:24 8	that time. But it is not necessarily the price	11:59:44 8	A. It would be the Australian
11:57:25 9	that you can put your position on it.	11:59:49 9	markets and depending on daylight savings time,
11:57:30 10	And the difference between those	11:59:51 10	somewhere between eight o'clock or ten o'clock.
11:57:31 11	two prices is your impact, is the market impact	12:00:00 11	Q. In a given day or night, as it
11:57:34 12	of taking your decision and implementing it	12:00:03 12	may be when you were a night trader, how many
11:57:37 13	into the real world.	12:00:07 13	orders would you place?
11:57:38 14	Q. So you're talking essentially	12:00:08 14	A. We traded approximately 20 or 25
11:57:39 15	about trying to do it quickly so that the	12:00:10 15	markets as part of our night shift and we would
11:57:47 16	pricing data is as close as possible to what	12:00:13 16	make one decision per day. And the decision
11:57:51 17	the computer is reporting?	12:00:15 17	may be to initiate a position, liquidate a
11:57:52 18	A. Right. So, you might describe it	12:00:18 18	position or take no action.
11:57:55 19	as being your fill prices close to your signal	12:00:20 19	Q. Was that a hard and fast rule,
11:57:59 20	price.	12:00:23 20	you would only do one per day?
11:58:00 21	Q. That makes sense. How many, back	12:00:24 21	A. Yes.
11:58:08 22	in the 2005 time frame -- I asked you to kind	12:00:24 22	Q. Why?
11:58:11 23	of give me a sense of your routine. You	12:00:25 23	A. To match trading to research.
11:58:13 24	outlined your primary responsibilities, which I	12:00:29 24	Q. So you'd take the very best
11:58:16 25	appreciate, but can you just take me through a	12:00:31 25	opportunity that your research told you to

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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
12:00:32 2	take, and only one opportunity a day?	12:03:24 2	A. Yes.
12:00:35 3	A. Trading times is drifting into	12:03:24 3	Q. What is your basis for that? Why
12:00:40 4	proprietary information.	12:03:30 4	would you characterize him as a sophisticated
12:00:41 5	Q. I am really not trying to pry	12:03:32 5	investor?
12:01:08 6	into anything proprietary. I really am trying	12:03:34 6	MR. PAULSEN: Objection, form.
12:01:10 7	to figure out the bases for your trading	12:03:35 7	A. Due to his track record and
12:01:13 8	decisions.	12:03:39 8	length of time trading.
12:01:14 9	As I understand it, based on what	12:03:40 9	Q. How long has he been trading?
12:01:16 10	you've described, it is largely dictated by the	12:03:42 10	A. Approximately 20 years.
12:01:22 11	results of a computer analysis of data?	12:03:53 11	Q. You talked a little bit earlier
12:01:24 12	A. Yes.	12:03:55 12	about the data that you would use to trade. I
12:01:29 13	Q. But I would assume that there	12:03:57 13	want to make sure I have a full understanding
12:01:30 14	were times when the computer is providing you	12:03:59 14	of it. So if I can just ask you the open-ended
12:01:34 15	with data that suggests that more than one	12:04:02 15	question, what specific sources of data did
12:01:38 16	trade or opportunity would be advantageous on	12:04:07 16	Stilton use to inform its trading?
12:01:43 17	any given day; is that correct?	12:04:09 17	A. We collected data from a number
12:01:45 18	MR. PAULSEN: Objection to form.	12:04:15 18	of data providers, such as Bloomberg, Reuters,
12:01:45 19	A. It is a research question I can't	12:04:21 19	CQG. There may have been an a couple of
12:01:49 20	answer.	12:04:27 20	others, like I think Knight-Ridder,
12:01:57 21	Q. But I am correct that your	12:04:31 21	Knight-Rider that I have not used.
12:02:00 22	trading decisions were dictated by the outcome	12:04:33 22	Q. In what form did this data take?
12:02:06 23	of a computer analysis of data?	12:04:36 23	In other words, is this stuff that is flashing
12:02:10 24	A. Yes.	12:04:38 24	across a computer screen, are you reading any
12:02:13 25	Q. Did you, as a matter of course,	12:04:39 25	of it in print? What is the format of this
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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
12:02:17 2	consult Mr. McPike on any of your trading	12:04:46 2	data?
12:02:21 3	decisions?	12:04:46 3	A. Data providers effectively
12:02:22 4	A. No.	12:04:52 4	provided two products for us, one is a terminal
12:02:23 5	Q. You operated independently of him	12:04:55 5	with an interface which we use to read the
12:02:26 6	on a day-to-day basis?	12:04:57 6	news, for example.
12:02:27 7	A. Depends what you mean	12:04:58 7	Q. Okay.
12:02:30 8	independently. And going to your previous	12:04:59 8	A. The other is an API or an
12:02:34 9	question about whether I consulted Mr. McPike	12:05:02 9	electronic link to their database where you can
12:02:36 10	on my trading decisions, I didn't make any	12:05:05 10	make discrete requests for information which
12:02:39 11	trading decisions such as decision to buy or	12:05:08 11	they would return.
12:02:43 12	sell an instrument. It was generated by the	12:05:11 12	Q. Did the traders at Stilton read
12:02:46 13	model.	12:05:13 13	any industry periodicals or publications on a
12:02:47 14	We were independently of Mr.	12:05:16 14	regular basis?
12:02:50 15	McPike, to the extent we have a functional	12:05:16 15	A. Yes.
12:02:52 16	split between research and trading, but we are	12:05:17 16	Q. Which ones?
12:02:55 17	part of the same business.	12:05:18 17	A. Lots. Bloomberg has a magazine
12:02:58 18	Q. So, would it be correct to say he	12:05:21 18	that we read. There is a Journal of
12:03:01 19	was more involved in the research and inputting	12:05:26 19	Quantitative Finance we read. Any number of
12:03:05 20	in the data, you performed a check on the data,	12:05:28 20	periodicals.
12:03:09 21	but you were more involved in the execution of	12:05:34 21	Q. Did you also watch any news
12:03:11 22	the trades?	12:05:35 22	programs on a regular basis?
12:03:11 23	A. Yes.	12:05:41 23	A. We don't have a TV in our trading
12:03:13 24	Q. Do you consider Mr. McPike to be	12:05:43 24	room. But we're interested people, so we watch
12:03:22 25	a sophisticated investor?	12:05:47 25	news when we're home and are interested in

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<p>1 CRAIG MAWDSLEY</p> <p>12:48:28 2 Q. If you look at the next page on</p> <p>12:48:35 3 this client fact sheet which is page 9 of the</p> <p>12:48:38 4 document, sir, there is actually a reference to</p> <p>12:48:48 5 different accounts that are managed at CIS. Do</p> <p>12:48:50 6 you see that?</p> <p>12:48:50 7 A. Yes.</p> <p>12:48:51 8 Q. There are two account numbers</p> <p>12:48:53 9 listed there, one is 5050 P. The other is 5001</p> <p>12:48:58 10 P.</p> <p>12:48:58 11 A. Yes.</p> <p>12:48:59 12 Q. Do you know what accounts those</p> <p>12:49:03 13 refer to?</p> <p>12:49:03 14 A. It is my belief that 5050 P is an</p> <p>12:49:09 15 account with a company called Alcott Finance.</p> <p>12:49:14 16 And I think the 5001 P account is Stilton's</p> <p>12:49:18 17 account.</p> <p>12:49:22 18 Q. For FX trading; correct?</p> <p>12:49:24 19 A. The 5001 P certainly. For</p> <p>12:49:28 20 5050 P, I don't know. I don't know the nature</p> <p>12:49:32 21 of that trading with CIS.</p> <p>12:49:34 22 Q. At the bottom of this same page</p> <p>12:49:36 23 there is a reference to a "Total risk capital."</p> <p>12:49:42 24 Do you see that?</p> <p>12:49:43 25 A. Yes.</p>	<p>1 CRAIG MAWDSLEY</p> <p>13:35:20 2 A. Yes.</p> <p>13:35:21 3 Q. I believe you stated that</p> <p>13:35:23 4 happened just a few months after you started</p> <p>13:35:24 5 working for Mr. McPike?</p> <p>13:35:27 6 A. Yes.</p> <p>13:35:28 7 Q. Were you involved in the</p> <p>13:35:30 8 transition of Stilton's FX trading account from</p> <p>13:35:32 9 Cargill to RCM?</p> <p>13:35:33 10 A. What do you mean by transition?</p> <p>13:35:35 11 Q. Well the account transitioned</p> <p>13:35:36 12 from Cargill to RCM; right?</p> <p>13:35:38 13 A. Yes.</p> <p>13:35:38 14 MR. PAULSEN: Objection to form.</p> <p>13:35:39 15 Q. Were you involved in that in any</p> <p>13:35:41 16 way?</p> <p>13:35:42 17 A. In a trading capacity, yes,</p> <p>13:35:46 18 because I'm trading with that entity. And in</p> <p>13:35:49 19 any other capacity, no.</p> <p>13:35:51 20 Q. So aside from your capacity as a</p> <p>13:35:55 21 trader, you didn't have any involvement in the</p> <p>13:36:03 22 transaction that resulted in Stilton's FX</p> <p>13:36:05 23 trading account moving from Cargill to RCM; is</p> <p>13:36:09 24 that correct?</p> <p>13:36:09 25 MR. RAND: Objection to form.</p>
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<p>1 CRAIG MAWDSLEY</p> <p>12:49:43 2 Q. Do you have an understanding of</p> <p>12:49:44 3 what that means, sir?</p> <p>12:49:45 4 A. No.</p> <p>12:49:51 5 MR. DOYLE: This would be a good</p> <p>12:49:53 6 time for a break.</p> <p>12:49:53 7 VIDEOGRAPHER: The time is now 12:49</p> <p>12:49:55 8 p.m. This is end of tape number 1. Off</p> <p>9 the record.</p> <p>10 (Luncheon Recess: 12:49 p.m.)</p> <p>11</p> <p>12 A F T E R N O O N S E S S I O N</p> <p>13 1:30 p.m.</p> <p>14</p> <p>15 CRAIG MAWDSLEY,</p> <p>16 resumed, having been previously duly</p> <p>17 sworn, was examined and testified further</p> <p>13:35:01 18 as follows:</p> <p>13:35:01 19 VIDEOGRAPHER: The time is now 1:34</p> <p>13:35:06 20 p.m. this is beginning of tape number 2.</p> <p>13:35:07 21 Back on the record.</p> <p>13:35:08 22 CONTINUED EXAMINATION BY MR. DOYLE:</p> <p>13:35:08 23 Q. Mr. Mawdsley, before we took our</p> <p>13:35:13 24 break you testified that Stilton's FX trading</p> <p>13:35:17 25 account was transferred from Cargill to RCM?</p>	<p>1 CRAIG MAWDSLEY</p> <p>13:36:10 2 MR. PAULSEN: Objection to form.</p> <p>13:36:10 3 A. That's correct.</p> <p>13:36:15 4 Q. To your knowledge was Stilton</p> <p>13:36:17 5 required in any way to transfer its FX trading</p> <p>13:36:20 6 account from Cargill to RCM?</p> <p>13:36:22 7 MR. PAULSEN: Objection to form.</p> <p>13:36:26 8 A. What do you mean by required?</p> <p>13:36:28 9 Q. Was there any obligation upon it,</p> <p>13:36:30 10 did it have options to use other brokerage</p> <p>13:36:32 11 firms if it wanted to? Was there anything that</p> <p>13:36:34 12 legally required, to your knowledge, Stilton to</p> <p>13:36:38 13 transfer its FX trading account from Cargill to</p> <p>13:36:43 14 RCM?</p> <p>13:36:43 15 MR. PAULSEN: Objection to form.</p> <p>13:36:44 16 A. I guess there was no legal</p> <p>13:36:46 17 requirement for us to transact business with</p> <p>13:36:48 18 RCM. It was an operational requirement which</p> <p>13:36:51 19 is we had no other accounts opened so if we</p> <p>13:36:53 20 wanted to continue trading, we had to transfer.</p> <p>13:37:00 21 Q. That's what I'm trying to figure</p> <p>13:37:02 22 out. Did Stilton in your mind have the option</p> <p>13:37:04 23 of using a different brokerage firm besides RCM</p> <p>13:37:08 24 for its FX trading?</p> <p>13:37:09 25 A. It always had an option of</p>

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<p>1 CRAIG MAWDSLEY</p> <p>14:21:02 2 Q. You're not aware of any company</p> <p>14:21:03 3 with the acronym RIS?</p> <p>14:21:05 4 A. No.</p> <p>14:21:16 5 MR. DOYLE: Could you mark</p> <p>14:21:18 6 this, please.</p> <p>14:21:18 7 (Mawdsley Deposition</p> <p>14:21:18 8 Exhibit 3188 for identification, Letter</p> <p>14:21:46 9 dated 8/15/05, production numbers</p> <p>14:21:48 10 REFCO-S-0787981.)</p> <p>14:21:36 11 Q. Mr. Mawdsley, I just had placed</p> <p>14:21:38 12 before you a document that's been marked</p> <p>14:21:39 13 Exhibit 3188. For the record it is a one-page</p> <p>14:21:42 14 document bearing two sets of Bates numbers.</p> <p>14:21:46 15 One of which is REFCO-S-0787981. Do you</p> <p>14:21:55 16 recognize this document, sir?</p> <p>14:21:57 17 A. Yes.</p> <p>14:21:57 18 Q. Have you seen it before today?</p> <p>14:21:59 19 A. Yes.</p> <p>14:22:01 20 Q. When did you first see it?</p> <p>14:22:02 21 A. 2005.</p> <p>14:22:03 22 Q. And you remember seeing it back</p> <p>14:22:05 23 then?</p> <p>14:22:05 24 A. Yes.</p> <p>14:22:10 25 Q. What is this exhibit?</p>	<p>1 CRAIG MAWDSLEY</p> <p>14:23:02 2 appears on this letter?</p> <p>14:23:03 3 A. Yes.</p> <p>14:23:06 4 Q. Whose?</p> <p>14:23:06 5 A. Jim Cone's.</p> <p>14:23:07 6 Q. Is all of it his or do you see</p> <p>14:23:11 7 two different sets of handwriting here?</p> <p>14:23:13 8 A. I see two different sets of</p> <p>14:23:15 9 handwriting.</p> <p>14:23:16 10 Q. When you say some of it is Jim</p> <p>14:23:17 11 Cone's, what handwriting are you referring to</p> <p>14:23:19 12 on the document?</p> <p>14:23:22 13 A. Everything except the signature</p> <p>14:23:23 14 of the letter, which I assume to be Steve</p> <p>14:23:26 15 Assimos' handwriting.</p> <p>14:23:28 16 Q. Some of his comments are in</p> <p>14:23:30 17 cursive, some look to be in print form, but you</p> <p>14:23:33 18 recognize both those types of writings as</p> <p>14:23:36 19 coming from Mr. Cone?</p> <p>14:23:38 20 A. I don't understand the question.</p> <p>14:23:42 21 Q. I am noting that some of the</p> <p>14:23:43 22 writings in hand on this document are cursive.</p> <p>14:23:47 23 A. What does cursive mean?</p> <p>14:23:49 24 Q. I don't know how to describe it.</p> <p>14:23:52 25 MR. PAULSEN: Script.</p>
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<p>1 CRAIG MAWDSLEY</p> <p>14:22:11 2 A. It is a letter from Cargill</p> <p>14:22:15 3 Investor Services Financial Services, Inc. to</p> <p>14:22:18 4 Stilton International Holdings regarding the</p> <p>14:22:20 5 transfer of its trading account from CIS</p> <p>14:22:23 6 Financial Services.</p> <p>14:22:23 7 Q. The date of it is August 15,</p> <p>14:22:25 8 2005; correct?</p> <p>14:22:26 9 A. Yes.</p> <p>14:22:30 10 Q. The person who wrote it is Steve</p> <p>14:22:32 11 Assimos, Vice President of CIS Financial</p> <p>14:22:35 12 Services; correct?</p> <p>14:22:35 13 A. Yes.</p> <p>14:22:36 14 Q. Do you know Mr. Assimos?</p> <p>14:22:38 15 A. No.</p> <p>14:22:43 16 Q. This letter states that "Refco's</p> <p>14:22:46 17 acquisition of CIS Financial Services will</p> <p>14:22:50 18 occur effective August 31, 2005."</p> <p>14:22:52 19 Do you see that?</p> <p>14:22:53 20 A. Yes.</p> <p>14:22:53 21 Q. Is it your recollection that the</p> <p>14:22:54 22 transfer of Stilton's FX account occurred on</p> <p>14:22:57 23 that date?</p> <p>14:23:00 24 A. Yes.</p> <p>14:23:01 25 Q. Do you know whose handwriting</p>	<p>1 CRAIG MAWDSLEY</p> <p>14:23:53 2 Q. In script. And some of it is</p> <p>14:23:54 3 printed.</p> <p>14:23:55 4 A. Okay.</p> <p>14:23:56 5 Q. I just wanted to make sure you</p> <p>14:23:59 6 recognize both his script or cursive writing</p> <p>14:24:02 7 and his print writing and think that all of the</p> <p>14:24:07 8 handwriting aside from the signature is Mr.</p> <p>14:24:09 9 Cone's?</p> <p>14:24:10 10 A. Yes.</p> <p>14:24:10 11 Q. You believe that to be the case?</p> <p>14:24:12 12 A. Yes.</p> <p>14:24:17 13 Q. I notice the letter at least was</p> <p>14:24:19 14 addressed to a Julian McPike, do you see that?</p> <p>14:24:21 15 A. Yes.</p> <p>14:24:21 16 Q. Someone has written it should be</p> <p>14:24:23 17 changed to Harold McPike; correct?</p> <p>14:24:25 18 A. Yes.</p> <p>14:24:27 19 Q. You believe that was Mr. Cone who</p> <p>14:24:29 20 did that?</p> <p>14:24:29 21 A. Yes.</p> <p>14:24:30 22 Q. Was there ever a Julian McPike</p> <p>14:24:32 23 who was associated with Stilton?</p> <p>14:24:33 24 A. Yes.</p> <p>14:24:34 25 Q. Who is Julian McPike?</p>

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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
14:24:35 2	A. He is Harold McPike's	14:26:33 2	Q. Do you know why he did that, sir?
14:24:39 3	brother-in-law.	14:26:35 3	A. Yes.
14:24:40 4	Q. Does he still do any work for	14:26:35 4	Q. Why?
14:24:42 5	Stilton?	14:26:36 5	A. I believe Jim was contacted by
14:24:42 6	A. No.	14:26:40 6	Mike Cartier on the 30th of August or about the
14:24:42 7	Q. Does he do any work for Mr.	14:26:44 7	30th of August and informed unless we responded
14:24:45 8	McPike?	14:26:47 8	to this letter that we would not be able to
14:24:49 9	A. Yes.	14:26:49 9	trade post transfer with RCM.
14:24:50 10	Q. What type of work does he do,	14:26:55 10	Q. So Mr Cartier wanted something in
14:24:52 11	sir?	14:26:58 11	writing that expressed an agreement to the
14:24:52 12	MR. RAND: Beyond the scope.	14:27:00 12	transfer?
14:24:54 13	A. It is beyond the scope. Property	14:27:01 13	A. I don't know what Mr. Cartier
14:24:56 14	management work in New Zealand.	14:27:02 14	wanted, but he did ask that we initial this
14:25:01 15	Q. This letter states that Stilton's	14:27:06 15	document and return it.
14:25:03 16	account will be assigned to RCM on August 31,	14:27:12 16	Q. So you believe what Mr. Cone has
14:25:08 17	2005 unless Stilton notified Cargill before	14:27:14 17	written on the bottom half of this exhibit was
14:25:11 18	close of business on August 26th not to effect	14:27:16 18	one at the request of Mr. Cartier?
14:25:14 19	the assignment; correct?	14:27:19 19	A. I believe so.
14:25:19 20	A. Yes.	14:27:27 20	Q. Do you have any understanding or
14:25:19 21	Q. Do you recall any discussions at	14:27:28 21	ability to explain any of the handwritten
14:25:22 22	Stilton about whether to allow the transfer of	14:27:31 22	notations in the upper right-hand corner of
14:25:24 23	this account to RCM?	14:27:34 23	this document?
14:25:24 24	A. No.	14:27:39 24	A. No.
14:25:26 25	Q. This letter also states no new	14:27:39 25	Q. Do you see the reference in these
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1	CRAIG MAWDSLEY	1	CRAIG MAWDSLEY
14:25:30 2	account documentation will be required to	14:27:49 2	handwritten notations to, I think it just say
14:25:33 3	effect the transfer. Do you see that?	14:27:56 3	"public very quickly." Do you see that
14:25:38 4	A. Yes.	14:27:58 4	language or those words?
14:25:38 5	Q. Do you recall whether Stilton	14:27:59 5	A. Yes.
14:25:40 6	signed any new documents or agreements in	14:27:59 6	Q. Do you have any understanding of
14:25:41 7	connection with the transfer of its FX trading	14:28:00 7	what that refers to?
14:25:44 8	account to RCM?	14:28:01 8	A. No.
14:25:47 9	A. Yes.	14:28:07 9	Q. Do you know whether Mr. Cone sent
14:25:47 10	Q. What do you know about that, sir?	14:28:12 10	this letter with his signature to anybody at
14:25:49 11	A. That we did not sign any new	14:28:15 11	Cargill or Refco?
14:25:51 12	agreements.	14:28:17 12	A. I believe so.
14:25:51 13	Q. You did not?	14:28:19 13	Q. Do you know to whom he sent it?
14:25:52 14	A. Yes.	14:28:21 14	A. I believe he sent it to Mike
14:25:56 15	Q. So it is your understanding the	14:28:23 15	Cartier.
14:25:57 16	terms of the foreign exchange account	14:28:23 16	(Mawdsley Deposition
14:26:01 17	agreements that we looked at earlier that were	14:28:23 17	Exhibit 3189 for identification, Novation
14:26:03 18	entered into between Cargill and Stilton would	14:29:05 18	Agreement, production numbers
14:26:07 19	govern the trading under those accounts with	14:29:08 19	REFCO-S-0787985 through 87.)
14:26:11 20	RCM?	14:28:55 20	Q. Mr. Mawdsley, I just had placed
14:26:12 21	A. Yes.	14:28:57 21	before you what's been marked as Exhibit 3189.
14:26:17 22	Q. At the bottom of this letter Mr.	14:29:01 22	For the record it is a three-page document
14:26:21 23	Cone expresses an indication that Stilton	14:29:03 23	bearing two sets of Bates numbers. One of
14:26:29 24	agrees with the transfer, do you see that?	14:29:05 24	which is REFCO-S-0787985 through 87.
14:26:30 25	A. Yes.	14:29:16 25	I'll give you a chance to look at

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